



DISTRICT ATTORNEY'S OFFICE
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215-686-8000

May 22, 2019

Via Email

Liam Knox
72226-15317603@requests.muckrock.com

Re: Final Response to Your Informal Request for Information

Dear Mr. Knox:

Thank you for writing the Philadelphia District Attorney's Office (DAO) to request information.¹ Your request was received by the Philadelphia District Attorney's Office (DAO) on April 25, 2019. You requested:

A copy of all emails, memorandums, reports, and internal communications produced by, or sent to, DA Larry Krasner's office regarding death row inmate Mumia Abu Jamal, who was convicted of murdering a Philadelphia police officer in 1982, and whose case has recently been cleared for appeal at a higher court by Philly DA Larry Krasner:

https://www.philly.com/news/mumia-abu-jamal-appeal-larry-krasner-withdraw-pennsylvania-supreme-court-20190417.html?fbclid=IwAR2lS_g2IZEyWRDuNfek0Fn9_0_rMK5OPitkfAFrfR2IxiNxo_tdrNnKSw

Please limit your search to documents produced between 2016-2019. If it helps to narrow your search, you may limit it to the following keywords: "Mumia Abu-Jamal," "cop killer," "appeal," "Ronald Castille," "Judge Leon Tucker," "Daniel Faulkner," "Maureen Faulkner," and "Judith Ritter."

Your request is denied. The records you seek are "criminal investigative records," which are not public under Section 708(b)(16) of the Right-to-Know Law, as you are seeking records related to a criminal incident. The RTKL contains an exemption for any records "relating to or resulting in a criminal investigation," 65 P.S. § 67.708(b)(16). *See, e.g., Barros v. Martin*, 92 A.3d 1243, 1250 (Pa. Commw. 2014) ("[I]f a record, on its face, relates to a criminal investigation, it is exempt under the RTKL pursuant to Section 708(b)(16)(ii)."). That exemption remains during

¹ Your request is being treated as an informal request for information. Written requests for records from local agencies are generally governed by Pennsylvania's Right-to-Know Law (RTKL), 65 P.S. §§ 67.101-67.3104. Pursuant to the RTKL, the DAO has established a Right-to-Know-Law Policy, which requires that the statewide standard Right-to-Know Request Form be used to submit written requests pursuant to the RTKL. The policy and form can be found at: <http://www.phila.gov/districtattorney/aboutus/Pages/RightToKnow.aspx>. Because you did not use the standard form, your request is not being treated as a formal request under the RTKL. However, the DAO refers to the RTKL for guidance in determining whether the requested information is public.

and after any investigation is completed. *See Coley v. Philadelphia Dist. Attorney's Office*, 77 A.3d 694, 697 (Pa. Commw. 2013) (“[C]riminal investigative records are still exempt from disclosure under the Right-to-Know Law after the investigation is completed[.]”); *Pennsylvania State Police v. Office of Open Records*, 5 A.3d 473, 479 (Pa. Commw. 2010) (en banc) (holding that criminal-investigative-record exemption of RTKL exempts records of “whether certain investigative tasks have been carried out or whether certain information was discovered”). The requested records would also reveal information protected under the expressly enumerated exemptions of 708(b)(16), including 708(b)(16)(i) (“[c]omplaints of potential criminal conduct”), *id.* (b)(16)(ii) (“[i]nvestigative materials, notes, correspondence, videos and reports”); *id.* (b)(16)(vi)(A) (“[r]eveal the institution, progress or result of a criminal investigation, except the filing of criminal charges”). Such records would also “include[] information made confidential by law.” *Id.* (b)(16)(iv) (“[a] record that includes information made confidential by law or court order”); *see* Pa. R.P.C. 1.6 (“A lawyer shall not reveal information relating to representation of a client unless the client gives informed consent”); *Heavens v. Pennsylvania Dep’t of Env’tl. Prot.*, 65 A.3d 1069, 1077 (Pa. Commw. 2013) (“The work-product doctrine offers broad protection to the mental impressions, theories, notes, strategies, research and the like created by an attorney in the course of his or her professional duties, particularly in anticipation or prevention of litigation.”); *Carey v. Pennsylvania Dep’t of Corr.*, 61 A.3d 367, 379 (Pa. Commw. 2013) (explaining that deliberative-process privilege protects information that “reflects or shows the deliberative process in which an agency engages during its decision-making”); *Gillard v. AIG Ins. Co.*, 15 A.3d 44, 59 (Pa. 2011) (explaining attorney-client privilege).

Moreover, such records would also constitute “investigative information” and/or “treatment information” under the Criminal History Record Information Act (CHRIA), 18 Pa.C.S. §§ 9101-9106. *See id.* § 9102 (defining “investigative information” as “[i]nformation assembled as a result of the performance of any inquiry, formal or informal, into a criminal incident or an allegation of criminal wrongdoing”); *id.* § 9102 (defining “treatment information” as “[i]nformation concerning medical, psychiatric, psychological or other rehabilitative treatment provided, suggested or prescribed for any individual charged with or convicted of a crime.”). Such information is exempt from disclosure under CHRIA and therefore the RTKL. *See id.* § 9106(c)(4) (“Investigative and treatment information shall not be disseminated to any department, agency or individual unless the department, agency or individual requesting the information is a criminal justice agency”); *Coley*, 77 A.3d at 697 (explaining that records barred from disclosure by CHRIA are “by definition” not public records under RTKL (citing 65 P.S. § 67.102)).

Please be advised that this correspondence will close your request with the DAO.

Sincerely,

/s/ Douglas Weck

Civil Litigation Unit
PHILADELPHIA DISTRICT ATTORNEY’S OFFICE